



# OFFICE OF THE STATE PUBLIC DEFENDER

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## **SUMMARY OF BILL RELATING TO CONFIDENTIALITY OF ARREST WARRANTS AND ALLOWING ACCESS TO COURT APPOINTED ATTORNEYS**

Current Iowa Code Section 804.29 makes arrest warrants confidential until such time as the officer has made the arrest and made the officer's return on the warrant. The section makes exceptions for certain officials, but not for court appointed attorneys.

There are many instances in which an attorney is appointed by the court to represent a defendant before arrest on the warrant has been made or the officer's return on the warrant has been filed with the clerk of court. For instance, a recurring situation is where a defendant is in jail in one county, but has an arrest warrant pending in another county or counties. Typically, everyone wants, and judicial economy dictates, that the charges in the different counties and jurisdictions be resolved at the same time without transporting the person already in jail in one county to the next county or jurisdiction. Usually, a public defender (PD) in the county or state where the arrest warrant is outstanding is appointed to represent the defendant who is in jail in the other jurisdiction. When the PD is appointed, he or she has no access to the court file or even the contact information for the client to whom he or she has been appointed without filing a motion and

getting a court order allowing access. The Court's EDMS (Electronic Data Management System) has compounded the problem because even after one PD has been successful in getting access to the court file, another PD may need to cover or take over for the first PD. Then, a new motion must be filed and another order secured to allow the second PD access to the file.

The goal of the proposed bill is to make our PD offices more efficient by eliminating needless paperwork and delay and saving taxpayer dollars by utilizing our appropriation in the most efficient manner possible. The proposed bill reverses the current general rule by generally allowing access to the court appointed attorney, but allowing the court to expressly restrict access by court order if there ever were a situation in which it would be appropriate to do so.

Last year, some county attorneys raised the possibility of law enforcement officers being ambushed while serving the warrant or the person subject to the warrant fleeing if the defendant or his or her attorney were notified of the arrest warrant information before the person was arrested on the warrant. In response, this Office has drafted the legislation this year to eliminate either of these concerns by limiting this year's bill to only those attorneys who have been court appointed in the specific case in which the warrant is outstanding and to the situations in which the defendant is already in custody. In these cases, the defendant who has already applied for court appointed counsel will necessarily have knowledge of the

existence of the charge for which the warrant has been issued and pose no possible danger to anyone or risk of flight because the defendant is already in custody.